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OCA 88-3002
8 September 1988

MEMORANDUM FOR: The Director

FROM: John L. Helgerson
Director of Congressional Affairs


SUBJECT: Joint Letter on "Anti-Stonewalling Act"
Amendment

1. David Addington, Deputy Assistant to the President for Legislative Affairs, has crafted the attached letter concerning the "Anti-Stonewalling" Amendment. The White House urges that the Attorney General and you sign it and have it delivered to the Speaker today as various amendments to the Omnibus Drug Bill are now being considered by the House.

2. I recommend you agree to sign this letter. I have left a copy with Russ Bruemmer to be sure he has no problem. Although brief, it makes the important points and avoids the long and complicated explanation of constitutional issues that Justice had wanted to include.

3. The White House has asked that the original of the letter be produced by the Attorney General's office as he is the Senior Cabinet level signer. Once he has signed this afternoon, the letter will come here for your signature and forwarding to Congress.

4. Please let me know quickly if I may communicate your approval of this draft to get the process in motion.


John L. Helgerson

Attachment

D/OCA/JLH  8 Sep 88)

Distribution:

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[DRAFT AG/DCI LETTER ON "ANTI-STONEWALLING" AMENDMENT]
[Note: identical letter would be sent to Minority Leader Michel]

The Honorable Jim Wright
Speaker
House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The Administration strongly supports and urges Congress to act swiftly to adopt effective and responsible legislation to combat drug abuse. United States law enforcement and intelligence agencies have devoted and will continue to devote substantial efforts toward achievement of the vital national objective of halting the flow of illegal drugs.

The amendment ^{the} proposed to be offered by Congressman Bill Alexander to the Omnibus Drug Initiative Act of 1988 (H.R. 5210) will weaken ~~our~~ hand of the United States in the battle against illegal drugs. The Alexander Amendment is both unwise and unconstitutional.

The Amendment requires executive branch personnel obtaining information about "illegal foreign drug activities" to forward such information promptly to the head of their agencies. In turn, the agency heads must furnish it to law enforcement agencies specially designated by the President and, upon request, to any committee of the Congress or the General Accounting Office (GAO). If the agency head personally determines that disclosure of the information risks specified damage to national security or law enforcement interests, he need not disclose the demanded information to a congressional committee, but he nevertheless must furnish to the GAO. The Amendment also provides for lawsuits by the GAO against Federal agencies to secure information covered by its provisions.

The Alexander Amendment would diminish the ability of the United States to collect narcotics intelligence. Sources of foreign narcotics intelligence, including cooperating foreign government agencies, would be less likely to share sensitive narcotics intelligence with U.S. agencies if it must be disseminated on demand to the General Accounting Office and, in many cases, to multiple congressional committees. The proper executive-legislative arrangements for handling sensitive narcotics intelligence in a responsible and secure fashion are those specified by Title V of the National Security Act of 1947, under which the Director of Central Intelligence and the heads of intelligence agencies keep the congressional intelligence committees fully and currently informed of intelligence activities, including narcotics intelligence.

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The prospect of lawsuits between the GAO and intelligence agencies over some of the most sensitive national security information in the possession of the United States presents a substantial danger of unauthorized disclosure of sensitive information. Congress recognized this danger when it enacted the General Accounting Office Act of 1980 that provided for the exemption of intelligence agencies from the GAO's current authority to bring suits against agencies.

The inter-agency reporting requirements established by the Amendment will disrupt effective, carefully crafted mechanisms for secure dissemination narcotics intelligence within the U.S. Government. These mechanisms ensure that sensitive narcotics intelligence is disseminated to law enforcement agencies and that the information is properly protected from unauthorized disclosure.

In addition to its practical flaws, the Amendment impermissibly encroaches on the powers of the President under the Constitution to faithfully execute the laws, supervise his subordinates in the executive branch, preserve the integrity of executive deliberations, and to protect the national security secrets.

We urge the House not to adopt the Alexander Amendment.

Sincerely,

Richard Thornburgh
Attorney General
of the United States

William H. Webster
Director of Central Intelligence

cc: The Honorable Bill Alexander